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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

165 #4
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In re application of

Karin GOLZ-BERNER and Leonhard ZASTROW

Appln. No.: 10/049,770

Group Art Unit: 1651

Filed: February 19, 2002

For: COSMETIC PREPARATION OF ACTIVE SUBSTANCES WITH
A SYNERGISTICALLY INCREASED RADICAL PROTECTION FACTOR

Attorney Docket No.: 3975.007

INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. §1.97 and §1.98

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

In accordance with the duty of disclosure under 37 C.F.R. §1.56, Applicants hereby notify the U.S. Patent and Trademark Office of the following documents for the above-identified application. Copies of the documents set forth below and listed on the attached Form PTO-1449 are provided herewith. Applicants are not aware of any English language documents corresponding to the German and French language documents.

1. U.S. Patent No. 5,629,185
2. U.S. Patent No. 5,552,378
3. Published international patent application WO 97/45100
A1
4. German Published Patent Application No. DE 43 28 639
A1

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5. French Published Patent Application No. FR 2 770 228
A1

The present Information Disclosure Statement is being filed after three months from the application's filing date but before the mailing date of the first Office Action on the merits, therefore no Certification Under 37 C.F.R. §1.97(e) or fee under 37 C.F.R. §1.17(p) is required.

Documents 1-4 are mentioned in the application as prior art documents. Document 5 was cited as "E" document in the International search report to this application. Claims 1, 6 and 8 of document 5 were mentioned with respect to claim 1 of the pending application.

The relevance of the non-English references is explained below.

Document 4

German Published Patent Application No. 43 28 639 A1 (Herrling et al.) entitled "Verfahren zur Messung des anti-oxidativen Potentials der Haut" was published March 02, 1995.

This document is concerned with a method for measuring the anti-oxidative potential of the human skin and providing a trans-dermal composition to be used in said method.

The relevant passage is in col. 2, line 62 to col. 3, line 6, translation as follows:

According to the invention, the method for measuring the anti-oxidative potential comprises (a) administering a trans-dermal composition onto the skin, the composition consisting of a physiologically acceptable carrier, which

is able to penetrate the skin and a physiologically acceptable, paramagnetic model substance in the form of a nitroxide or nitroxide comprising composition carrying free radicals, wherein the radicals are degraded by antioxidants in the skin within 5 to 60 minutes, and wherein the model substance is in the range of 1 to 100 mMol.

Examples for model substances and nitroxides are given in col. 3, lines 29-40 and claim 2 in col. 6, lines 40-56. It is stated that 5- and 6-ring systems are suitable model substances because they may be degraded in 5-60 minutes. Examples for suitable nitroxides are among others proxo-(2,2,5,5-tetramethyl-1-dihydropyrrolineoxy-nitroxide), proxad-(2,2,5,5-tetramethyl-1-dihydropyrrolineoxy-nitroxide) and doxo-(2,2,5,5-tetramethyl-3-oxazolidineoxy-nitroxide).

This document does neither disclose a product obtained by extraction of the bark of Quebracho blanco and subsequent enzymatic hydrolysis nor an extract of the silkworm obtained by extraction containing the peptide cecropine, amino acids and a vitamin mix, which content ranges from 0.1 to 10 wt %.

Applicants therefore consider this document not to be pertinent art, but merely a document defining the general state of the art, which is not considered to be of particular relevance for the claimed invention.

Document 5

French Published Patent Application No. 2 770 228 A1 (Berthon and Pourrat) entitled "Procede d'obtention d'oligomeres de proanthocyanidines par biofermentation et leur utilisation

dans des compositions cosmetiques, dietetiques, pharmaceutiques, chimiques et alimentaires", was published April 30, 1999.

Document 5 refers to a process for manufacturing a concentrate of proanthocyanidine oligomers, which are obtained from the bark of *Schinopsis lorenzii* and concentrated to proanthocyanidine oligomers by means of fermentation (page 9, claim 1). *Schinopsis lorenzii* is a tree from Argentina, which is also called "le Quebracho" and which belongs to the family of Anacardiaceae (page 1, lines 15-17). Microorganisms like *Aspergillus niger* are used for the fermentation process (page 1, lines 25-26).

For the preparation of the concentrate, the bark of *Schinopsis lorenzii* is used in powdered form. The extract of the bark contains tannins, and due their different molecular weights, one part of the solution is soluble while another part is insoluble (page 2, lines 7-11).

The culture conditions for *Aspergillus niger* are given on page 2, lines 24-32.

The concentrate of proanthocyanidine oligomers derived from *Schinopsis lorenzii* is particular interesting because it limits the effects of aging due to mucopolysaccharides, vitamins and ceramides (page 3, line 33 to page 4 line 1).

The concentrate of proanthocyanidine oligomers may be used as a pharmaceutical (...) comprising 0,01 to 25 % of the active ingredient (page 7, lines 3-6), which can be in encapsulated form (page 1, line 5).

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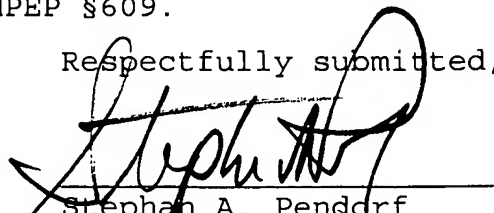
Although document 5 discloses an extract derived from a tree called Quebracho, it does not disclose an extract additionally containing an extract of the silkworm obtained by extraction containing the peptide cecropine, amino acids and a vitamin mix. Further, document 5 does not refer to an ultrasound decomposition product of a yeast containing at least 150 units of superoxide dismutase per ml.

Applicants therefore believe, that this document not relevant for the claimed invention.

The submission of the listed documents is not intended as an admission that any such document constitutes prior art against the claims of the present application. Applicant does not waive any right to take any action that would be appropriate to antedated or otherwise remove any listed document as a competent reference against the claims of the present application.

Applicant respectfully requests that the listed documents be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO-1449 be returned in accordance with MPEP §609.

Respectfully submitted,


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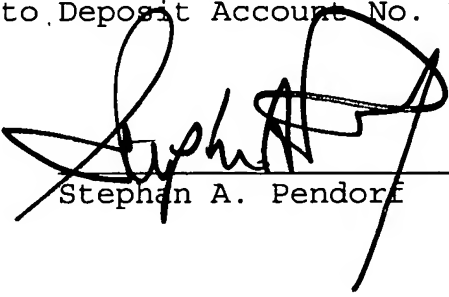
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CERTIFICATE OF MAILING AND AUTHORIZATION TO CHARGE

I hereby certify that the foregoing INFORMATION DISCLOSURE STATEMENT Form PTO-1449, including five documents, for U.S. Application No. 10/049,770 filed February 19, 2002, were deposited in first class U.S. mail, postage prepaid, Washington, D.C. 20231, on **June 19, 2002**.

The Commissioner is hereby authorized to charge any additional fees, which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account No. 16-0877.


Stephan A. Pendorf

(Use several sheets if necessary)

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10/049,770

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GROUP

1651

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***EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.